



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,833	09/17/2001	Gabriel Laufer	31826.0004	1453

34444 7590 06/27/2003

UNIVERSITY OF VIRGINIA PATENT FOUNDATION  
1224 WEST MAIN STREET, SUITE 1-110  
CHARLOTTESVILLE, VA 22903

EXAMINER

STAFIRA, MICHAEL PATRICK

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 06/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/936,833

Applicant(s)

LAUFER, GABRIEL

Examiner

Michael P. Stafira

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period of Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-61 is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2 and 4-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Objections*

1. Claim 2 are objected to because of the following informalities:

In claim 2, "said reference filter assembly" should be --a reference filter assembly-- since it was not disclosed previously. The claims have many of these types of errors and it is the responsibility of the applicant to correct.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "said sample bandpass filter" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is unclear if this sample bandpass filter is the same as the sample filter assembly. The claims have many of these types of errors and it is the responsibility of the applicant to correct.

In as much as the claim(s) can be understood in light of the 112 rejection(s) made above, the following rejection(s) apply:

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 rejected under 35 U.S.C. 102(e) as being anticipated by Raddett ('247).

**Claim 1**

Raddett ('247) discloses a first optical path and a second optical path (See Fig. 3); a light collecting optics (Fig. 3, Ref. 14) configured to collect light (Fig. 3, Ref. 12) or other radiation to be transmitted along the first and second optical path; a sample filter assembly (Fig. 3, Ref. 16) positioned in the first optical path after the light collecting optics (Fig. 3, Ref. 14); a sample detector assembly (Fig. 3, Ref. 26) positioned in the first optical path after the sample filter assembly (See Fig. 3), and a reference detector assembly (Fig. 3, Ref. 44) positioned in the second optical path after the light collecting optics (Fig. 3, Ref. 14); and a detector output comparison device (Fig. 3, Ref. 11).

***Allowable Subject Matter***

6. Claims 20-61 are allowed over the prior art of record.
7. Claims 2, 4-19 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 20, the prior art fails to disclose or make obvious a remote sensor having a sample filter assembly positioned in the first optical path after the first beam splitter, and in

Art Unit: 2877

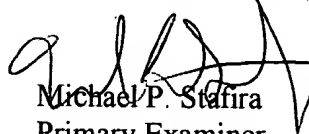
combination with the other recited limitations of claim 20. Claims 21-51 are allowed by the virtue of dependency on the allowed claim 20.

Regarding claim 52, the prior art fails to disclose or make obvious a method of determining the presence of a target species having the step of directing a first portion of the light or other radiation through a sample filter assembly, and directing a second portion of the light or radiation through a reference filter assembly, and in combination with the other recited limitations of claim 52. Claims 53-61 are allowed by the virtue of dependency on the allowed claim 52.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Stafira whose telephone number is 703-308-4837. The examiner can normally be reached on 4/10.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 703-308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7721 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
Michael P. Stafira  
Primary Examiner  
Art Unit 2877

June 17, 2003